

50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52****[FRL-XXXX-X]****Notice of Availability of Responses to Comments on  
Proposed Rulemaking for Section 126 Petitions for  
Purposes of Reducing Interstate Ozone Transport**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability.

**SUMMARY:** The EPA conducted an extensive rulemaking on petitions filed by eight Northeastern States under section 126 of the Clean Air Act (CAA). These petitions sought to reduce interstate transport of nitrogen oxides (NO<sub>x</sub>), one of the precursors of ground-level ozone. During part of the rulemaking process and after EPA had taken one final action on the petitions (64 FR 28250, May 25, 1999), EPA issued a proposal (64 FR 33962, June 24, 1999) and solicited comments on a set of discrete issues. In response, a number of comments were submitted that were outside the scope of the June 24, 1999 proposal and that, effectively, sought reconsideration of issues on which EPA had already taken final action. On January 18, 2000, the Agency took final action on the June 24, 1999

proposal, and noted that it would respond to those comments at a later date. This notice informs the public that EPA has responded separately to those comments and that the responses are now available in the docket (Docket Number A-97-43).

**ADDRESSES:** Documents relevant to this action are available for inspection at the Air and Radiation Docket and Information Center (6102), Attention: Docket No. A-97-43, U.S. Environmental Protection Agency, 401 M Street SW, room M-1500, Washington, DC 20460, telephone (202) 260-7548 between 8:00 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Questions concerning today's action should be addressed to David Cole, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, MD-15, Research Triangle Park, NC, 27711, telephone (919) 541-5565, e-mail at [cole.david@epa.gov](mailto:cole.david@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Availability of Related Information**

The official record for the section 126 rulemaking, as well as the public version of the record, has been

established under docket number A-97-43. The public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information, is available for inspection from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address in ADDRESSES at the beginning of this document. In addition, the Federal Register rulemakings and associated documents are located on EPA's websites at <http://www.epa.gov/ttn/rto/126> and at <http://www.epa.gov/acidrain/modlrule/main.html#126>.

### **Background**

On May 25, 1999 (64 FR 28250), EPA made final determinations that portions of the petitions filed by eight Northeastern States under section 126 of the CAA are technically meritorious. The petitions sought to mitigate what they described as significant transport of one of the main precursors of ground-level ozone, NO<sub>x</sub>, across State boundaries. Each petition specifically requested that EPA make a finding that certain stationary sources emit NO<sub>x</sub> in violation of the CAA's prohibition on emissions that significantly contribute to nonattainment

problems in the petitioning State.

On June 24, 1999 (64 FR 33962), EPA proposed to revise two aspects of the May 25, 1999 final rule. The EPA proposed to stay indefinitely the affirmative technical determinations based on the 8-hour standard pending further developments in the litigation of that standard (see 64 FR 33956, June 24, 1999). The EPA also proposed to remove the trigger mechanism for making section 126 findings that was based on deadlines specified in a related EPA action to reduce interstate transport of ozone, the NOx State implementation plan (SIP) call, and to instead make the findings under the 1-hour standard.

The EPA finalized the revisions to the May 25, 1999 final rule on January 18, 2000 (65 FR 2674). In this revised rule, EPA noted that it received comments on the June 24, 1999 proposal that the Agency considers to be outside the scope of that proposal. These comments relate primarily to issues that have been addressed previously either in the NOx SIP call final rule, the NOx SIP call response to comments document, the May 25, 1999 final rule for the section 126 petitions, or the April 1999 response to comments document for the section 126

petitions. Although these comments were outside the scope of the rulemaking, EPA responded to most of them in the revised rule of January 18, 2000.

The EPA did not, in the revised rule, respond to certain comments that the Agency believes should be considered to be, in effect, petitions for reconsideration of the May 25, 1999 section 126 final rule. By today's action, EPA is notifying the public that EPA has responded

**Notice of Availability of Responses to Comments on  
Proposed Rulemaking for Section 126 Petitions for  
Purposes of Reducing Interstate Ozone Transport - Page 5  
of 5**

to these comments separately in a document placed in the rulemaking docket for the section 126 petitions (A-97-43), document number XII-A-01.

Dated:

---

Carol M. Browner,  
Administrator